

ASSESSMENT FORECLOSURE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends foreclosure provisions in the Assessment Area Act.

Highlighted Provisions:

This bill:

- ▶ authorizes a local entity to enforce an assessment lien by judicial foreclosure; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-502, as enacted by Laws of Utah 2007, Chapter 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-42-502** is amended to read:

11-42-502. Enforcement of an assessment lien -- Methods of enforcing lien --

Redemption of property -- Remedies are cumulative to other remedies.

(1) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus



28 interest, penalties, and costs~~[, in the manner provided]:~~

29 ~~[(a) by resolution or ordinance of the local entity;]~~

30 ~~[(b) (a) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes,~~
31 ~~for the sale of property for delinquent general property taxes; or~~

32 ~~[(c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a~~
33 ~~trust deed in favor of the local entity.]~~

34 ~~(b) by judicial foreclosure.~~

35 (2) Except as modified by this chapter, each tax sale under Subsection (1)~~[(b)]~~(a) shall
36 be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the
37 sale were for the sale of property for delinquent general property taxes.

38 ~~[(3) (a) In a foreclosure under Subsection (1)(c):]~~

39 ~~[(i) the local entity may bid at the sale;]~~

40 ~~[(ii) the local entity's governing body shall designate a trustee satisfying the~~
41 ~~requirements of Section ~~57-1-21~~;~~]

42 ~~[(iii) each trustee designated under Subsection (3)(a)(ii) has a power of sale with~~
43 ~~respect to the property that is the subject of the delinquent assessment lien;]~~

44 ~~[(iv) the property that is the subject of the delinquent assessment lien is considered to~~
45 ~~have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to~~
46 ~~exercise the trustee's power of sale under Subsection (3)(a)(iii);]~~

47 ~~[(v) if no one bids at the sale and pays the local entity the amount due on the~~
48 ~~assessment, plus interest and costs, the property is considered sold to the local entity for those~~
49 ~~amounts; and]~~

50 ~~[(vi) the local entity's chief financial officer may substitute and appoint one or more~~
51 ~~successor trustees, as provided in Section ~~57-1-22~~;~~]

52 ~~[(b) The designation of a trustee under Subsection (3)(a)(ii) shall be disclosed in the~~
53 ~~notice of default that the trustee gives to commence the foreclosure, and need not be stated in a~~
54 ~~separate instrument.]~~

55 ~~[(4)(a)]~~ (3) The redemption of property that is the subject of a tax sale under
56 Subsection (1)~~[(b)]~~(a) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

57 (b) The redemption of property that is the subject of a judicial foreclosure proceeding
58 under Subsection (1)~~[(c)]~~(b) is governed by ~~[Title 57, Chapter 1, Conveyances]~~ Title 59,

59 Chapter 2, Part 13, Collection of Taxes, except that the property may be redeemed at any time
60 prior to a judicial decree on the property rather than prior to the tax sale.

61 [~~5~~] (4) (a) The remedies provided for in this part for the collection of an assessment
62 and the enforcement of an assessment lien are cumulative.

63 (b) The use of one or more of the remedies provided for in this part may not be
64 considered to deprive the local entity of any other remedy or means of collecting the
65 assessment or enforcing the assessment lien.

Legislative Review Note
as of 1-29-15 4:41 PM

Office of Legislative Research and General Counsel